

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

IN RE:)
) CA No. 04-10981-PBS
NEURONTIN MARKETING, SALES PRACTICES,) Pages 1 - 124
AND PRODUCTS LIABILITY LITIGATION)

FINAL PRETRIAL CONFERENCE - DAY TWO
AND
DAUBERT HEARING

BEFORE THE HONORABLE PATTI B. SARIS
UNITED STATES DISTRICT JUDGE

United States District Court
1 Courthouse Way, Courtroom 19
Boston, Massachusetts
July 21, 2009, 9:15 a.m.

LEE A. MARZILLI
OFFICIAL COURT REPORTER
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<p>1 APPEARANCES: 2 3 FOR THE PLAINTIFFS: 4 ANDREW G. FINKELSTEIN, ESQ., KENNETH B. FROMSON, ESQ., and KEITH L. ALTMAN, ESQ., Finkelstein & Partners, LLP, 1279 Route 300, P.O. Box 1111, Newburgh, New York, 12550. 5 6 FOR THE DEFENDANTS: 7 DAVID B. CHAFFIN, ESQ., White and Williams, LLP, 100 Summer Street, Suite 2707, Boston, Massachusetts, 02110. 8 9 MARK S. CHEFFO, ESQ. and STEVE NAPOLITANO, ESQ., Skadden, Arps, Slate, Meagher & Flom, LLP, Four Times Square, New York, New York, 10036. 10 11 RICHARD M. BARNES, ESQ. and WARREN HONG, ESQ., Goodell DeVries, Leech & Dann, LLP, One South Street, 20th Floor, Baltimore, Maryland, 21202. 12 13 ALSO PRESENT: Chuck Vaughn, Trial Graphics. 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 2</p> <p>1 PROCEEDINGS 2 THE CLERK: In Re: Neurontin Marketing, Sales 3 Practices, and Products Liability Litigation, Civil Action 4 No. 04-10981, will now be heard before this Court. Will 5 counsel please identify themselves for the record. 6 MR. FINKELSTEIN: Andrew Finkelstein, Finkelstein 7 & Partners, on behalf of Dr. Egilman. Judge, Dr. Egilman 8 happens to be here today, so I just wanted to introduce you. 9 Yesterday you said you hadn't seen him. 10 MR. FROMSON: Good morning, Judge. Kenneth 11 Fromson, Finkelstein & Partners. 12 MR. ALTMAN: Good morning, your Honor. Keith 13 Altman, Finkelstein & Partners. 14 MR. CHEFFO: Your Honor, Mark Cheffo, Skadden 15 Arps. 16 MR. NAPOLITANO: Good morning, your Honor. Steve 17 Napolitano from Skadden Arps. 18 MR. BARNES: Rick Barnes from Goodell DeVries in 19 Baltimore. 20 MR. CHAFFIN: Good morning, your Honor. David 21 Chaffin for Pfizer. 22 THE COURT: The two of you are the hard workers? 23 MR. HONG: Warren Hong from Goodell DeVries in 24 Baltimore. 25 MR. VAUGHN: Charles Vaughn from Trial Graphics.</p>
<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 INDEX 2 3 WITNESS DIRECT CROSS REDIRECT RECROSS 4 5 Sander Greenland 6 BY MR. ALTMAN: 42 7 BY MR. BARNES: 72 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 3</p> <p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>1 THE COURT: Thank you. So today we're going to 2 begin the hearing on the statistics, and I reject the 3 plaintiffs' proposed jury questionnaire as well as 4 defendants'. I'm thinking of a question that looks 5 essentially like this: "This case involves suicide. Would 6 this topic cause you so much stress and discomfort that you 7 would be unable to listen to the evidence or be fair?" I'm 8 going to basically give people an out. If they say "yes," 9 they don't sit on the jury. So I'm not going to ask people 10 if they ever thought about suicide. It's a little 11 intrusive. And I'll ask people orally some of these other 12 questions, which is, for example, ever taken Neurontin, and 13 some of these other, whether anyone close to you ever tried 14 to commit suicide, et cetera? So then you can see who they 15 are and use peremptories, if you choose to, but I'm not 16 going to ask people to expose their innermost thoughts and 17 medical conditions. 18 So let's just get on to the Daubert hearing. 19 MR. ALTMAN: Good morning, your Honor. Today we 20 are here in an attempt to strike the testimony of Dr. Robert 21 Gibbons under Daubert, Joyner, and progeny and Rule 702. Is 22 your screen on, your Honor? 23 THE COURT: Yes. 24 MR. ALTMAN: And Rule 702. Rule 702 governs the 25 testimony of experts, and in order for testimony to be</p>

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<p style="text-align: right;">Page 118</p> <p>1 MR. FROMSON: Cynthia McCormack did the clinical 2 review in 1992. It's the infamous clinical review. 3 THE COURT: Oh, yes, that's a big one. 4 MR. FROMSON: Yes, it is. And defendants retained 5 her, and defendants paid her, and she did an affidavit, and 6 she was paid to provide opinions in the case, and we deposed 7 her in a discovery deposition. My concern is, we have 8 objections to her so-called opinion testimony. If she's 9 truly an expert retained by the defense, she should be here 10 live, or else why wouldn't we start playing our experts by 11 video? 12 THE COURT: So that's not a thousand -- 13 MR. FROMSON: No, that's a real macro issue. When 14 you asked, do we have lots of objections to designations, 15 yes, overall we have many depositions we have to go over. 16 So the issue that comes to mind was Cynthia McCormack, do 17 they have to bring her live, is she -- 18 THE COURT: She can testify about factually what 19 she did or she didn't do. 20 MR. FROMSON: I agree. The issue is, when they 21 ask her an opinion about whether Neurontin causes suicide, 22 she ought to be in the courtroom subject to cross to give 23 that. 24 THE COURT: She can only do it about what her 25 opinion was at that particular moment in time.</p>	<p style="text-align: right;">Page 120</p> <p>1 repetitive, or just some broad-sweep foundation. 2 MR. CHEFFO: I think, you know, to that point, we 3 understand. I think we've gotten some guidance as well from 4 yesterday. Is it something that you expect your chambers to 5 deal with, or is it something that the magistrate will deal 6 with? 7 THE COURT: I'll deal with. This is trial 8 testimony at this point, but just understand that if you get 9 it to me too late, I'm not going to rule on it. 10 MR. FROMSON: That's why I was concerned. 11 THE COURT: And if it screws up your timing and 12 editing and all of that, because I have all these other 13 cases in the afternoon, and plus I've got a thousand other 14 obligations. So if you want me to rule, I am not an ATM 15 machine. Like, when you started spitting more motions out 16 than I could rule on per minute, I can't keep up. You have 17 to use some internal filtration device. 18 MR. FROMSON: So that's why I inquired today, 19 Judge, and I don't want to file a motion when you had a 20 standing order that says "no more motions." So I'm here 21 Wednesday, I'm here Thursday if you want to address it. 22 THE COURT: When I say "no more motions," if 23 someone has a stroke or there's like a crisis like we had 24 with this witness who claims she was intimidated, I'm not 25 referring to that. I'm talking about --</p>
<p style="text-align: right;">Page 119</p> <p>1 MR. FROMSON: I understand that, Judge. Thank 2 you. That gives me guidance. 3 THE COURT: Not now. 4 MR. FROMSON: That gives me guidance, your Honor, 5 as to how the objections will be ruled upon with the yellow 6 and red. 7 THE COURT: If she's a fact witness, she comes in 8 that way. If she's an expert witness -- was she designated 9 as an expert? 10 MR. FROMSON: No. 11 MR. CHEFFO: Your Honor, again, this is like, you 12 know, kind of a trial by ambush thing. We're pulling out 13 something you haven't even seen. He's asking you to make 14 rulings before you've even seen -- 15 MR. FROMSON: No, I actually asked if there was a 16 mechanism by which to bring it to her attention, if not 17 today. That's what I asked. 18 THE COURT: Let me just say this: What I don't 19 want -- that seems like a completely fair issue to present 20 to me. 21 MR. FROMSON: Thank you, Judge. 22 THE COURT: What I don't want is, "We can't agree 23 that this is a leading question," or, "This is --" 24 MR. FROMSON: We don't have those issues. 25 THE COURT: You know, that this is, you know,</p>	<p style="text-align: right;">Page 121</p> <p>1 MR. FROMSON: Well, may I have leave to file the 2 motion on this issue? 3 THE COURT: No, no. 4 MR. FROMSON: Okay. So I don't know what the 5 mechanism is. 6 THE COURT: I've allowed you to object to each 7 other's depositions. It's not just trial -- if there's a 8 real crisis that comes up, "Judge, we're settling the case," 9 let me know, give us a -- 10 MR. FROMSON: Your Honor, I don't know whether 11 defense counsel is going to claim to you two days before 12 they expect to play her video, "Judge, we didn't get a plane 13 ticket for her to come up here. No one told us she had to 14 testify live." Mr. Fromson said -- 15 THE COURT: Excuse me. You know, at this point 16 I'm saying the only thing I have left, as far as I know, for 17 all of you, the only key thing is hearing from Dr. Gibbons 18 on Thursday. And there's one thing I might have to do, and 19 I may have to juggle the times a little bit, but other than 20 that, that's all that I view my having to rule on at this 21 point. 22 MR. FROMSON: Thank you, Judge. 23 THE COURT: Other than that, I think everything 24 has been ruled on. 25 MR. FROMSON: Yes, your Honor.</p>